



**City Council
Regular Meeting Minutes
January 20, 2015
6:00 p.m.
Trinity City Hall Annex
Trinity, NC**

Members Present: Jesse Hill, Mayor, Debbie Frazier, Mayor Pro-Tem;
Council Members: Chester Ayers, Jerry Daniels, Linda Gantt, Ed Lohr, and Don Payne.

Members Absent: Gene Byerly, and Jerry Daniels.

Others Present: Debbie Hinson, City Manager; Nick Herman, City Attorney; Rich Baker, Public Works Director/ Stormwater Administrator; Lisa Beam, Assistant Finance Officer; Annette deRuyter, Assistant City Clerk; and other interested parties.

I. Welcome and Pledge of Allegiance

Mayor Hill called the meeting to order at 6:10 p.m. and welcomed those in attendance.

II. Pledge of Allegiance

Mayor Hill led the Pledge of Allegiance.

III. Invocation

Council member Payne gave the Invocation.

A. Approve and/or Amend Agenda

Mayor Hill opened this item and called for any changes.

Manager Hinson asked that Council amend the Agenda to remove Item 2, December 08, 2014 Meeting Minutes and Item 3, December 15, 2014 Meeting Minutes.

Council member Payne made a motion to amend the Agenda to accept the removal of minutes as requested. The motion was seconded by Council member Frazier, and approved with a vote of 6 ayes to 0 Nays with Council members Byerly and Daniels absent.

B. Action Item Report

Manager Hinson read the Action Item from the Pre-Agenda meeting as stated in Attachment #1. (Attachment # 1 is attached to and made a part of these minutes).

C. Public Comment

Jerry Sturgis – 6808 Country Meadow, Trinity, NC 27370

Mr. Sturgis addressed Manager Hinson and Council members regarding issues in his opinion, which had a potential impact on the City.

Some of the issues he raised were the necessity for a sign in sheet and cameras at City Hall. He asked if a sign in sheet was developed and placed at the office could Council members be required to sign in as well when visiting the office.

Also of particular concern to Mr. Sturgis were comments that he stated had been shared with him from other residents in regards to the action of one or more Council members as well as their increased presence at City Hall and whether or not this had an effect on the work flow at City Hall.

In conclusion, Mr. Sturgis asked if a sign in sheet and cameras could be installed if approved by Council.

In response to the issues raised concerning a sign in sheet and camera's, Manager Hinson advised Mr. Sturgis that requiring a sign in sheet and cameras could be done at the direction of Council.

IV. Standing Report

1. Infrastructure Projects Update (*Rich Baker, Utilities & Public Works, Director/Randy McNeill, Davis-Martin-Powell & Assoc.*)

A. Phase 5 Sewer Updates (*Baker*)

B. Ennis Flint Sewer Extension (*Baker & McNeill*)

Mr. Baker updated the Phase 5 sewer project advising Council members that letters concerning the hook up had been mailed to the residents that are now connecting to the sewer lines in Phase 5.

We have a few issues that need to be corrected prior to the final payment for this project. The City is withholding final payment in an effort to expedite the completion of these issues.

Mr. Baker reported to those present that the Storage/Maintenance building would be delivered February 05, 2015.

Mr. McNeill reported on the Ennis Flint project. The easements are in the negotiating stage and Benchmark will request recommendations for the appraisals.

V. Consent Agenda

2. **Approve minutes of the December 08, 2014 Pre-Agenda Meeting**
(Annette deRuyter, Assistant City Clerk)
3. **Approve minutes of the December 15, 2014 Regular Meeting**
(Annette deRuyter, Assistant City Clerk)

These minutes were removed per request by Manager Hinson under Approve and/or Amend Agenda as shown below.

Manager Hinson asked that Council approve the Agenda with the removal of the December 08, 2014 and December 15, 2014 minutes.

Motion by Council member Payne to accept the removal of minutes seconded by Council member Frazier and approved unanimously with a vote of 6 to 0 with Council member Byerly and Daniels absent.

VI. 4. Text Amendments (Items 1-6)

- Move Board of Adjustments so it is established just under City Council and not with Planning Board.
- Amendments to Section 16-1B.(3); Section 16-2.A.; Section 16-2.B; Section 16-2.C; Section 16-2.E; & Section 16-12.(4);
 1. Recommend removal of Section 16-1B. (3). Section **16-1B. (4) would become Section 16-1B. (3).**
 2. Recommend amending Section 16-2.A to replace Planning Board with City Council. Text replacement will say, **“The individuals appointed to serve on the City Council shall also serve as the Board of Adjustment.”**
 3. Recommend replacing Section 16-2.B to say **“Number of Members: The Board shall consist of the nine (9) members of the City Council.”**
 4. Recommend replacing Section 16-2.C to say **“Length of Terms – Length of terms for Board of Adjustment members shall coincide with length of terms for City Council members.”**
 5. Recommend amending Section 16-2.E. to replace Chair with Mayor and Vice Chair with Mayor Pro Tempore. Text replacement will say, **“The Mayor or in his/her absence, the Mayor Pro Tempore, may administer any oaths and compel attendance of witnesses by subpoena.”**
 6. Recommend replacing Section 16-12. (4) to say, **“(4) to reside as the Board of Adjustment when a quasi-judicial hearing is needed.”**

Mr. Baker reviewed the information provided in the Pre-Agenda Packet (attachment # 2) regarding items 1- 6 shown above discussing why these revisions were proposed.

Council members, Mr. Baker, Manager Hinson, and Attorney Herman, reviewed the proposed text amendment as shown in Item # 2 relating to Section 16-2 A. The recommendations regarding the changes in this text amendment were formulated for consideration because the Planning Board serves as a recommending body only and does not make the final decision

regarding a request. This means that Council must hear the same request. This change will result in cost effectiveness for the City by eliminating duplicate advertisements and mailings for the same request and will also eliminate the need for the applicant to present the information two (2) times.

The remaining text amendment changes are tailored to resolve any conflict in the Ordinance that concern establishing the City Council as the Board of Adjustments rather than the Planning Board for quasi-judicial hearings.

At the conclusion of discussion, in accordance with the recommendations of staff as outlined in attachment # 2, the following action was taken;

Council member Ayers made a motion to accept the Text Amendment changes. The motion was seconded by Council member Carico and approved unanimously with a vote of 6 to 0 with Council member Byerly and Daniels absent.

(Attachment # 2 is attached to and made a part of these minutes).

VII. 5. Text Amendment (Items 1-3)

1. Recommend replacing Multi-Use Path with Sidewalk. With text replacement saying **“Yes, 5-foot sidewalk in conformance with Article 13(8) (B), Sidewalks, Bike Lanes, and Multi-Use Paths.”**
2. Recommend removing Surret Drive Overlay District (SD-0) from 13-8(C). Sentence would say, **“Multi-use paths shall be required when indicated on official City of Trinity transportation plans/maps & pedestrian plans/maps”.**
3. Recommend removing 13-10(C) 1. **13-10-(C) 2 would become 13-10-(C) 1 and 13-10-(C) 3 would become 13-10-(C) 2.**

Mr. Baker summarized the information provided in the Pre-Agenda Packet (attachment # 3) regarding items 1-3 shown above discussing why these revisions were needed. He explained that these changes would effectively address the concerns of the proposed applicant.

Attorney Herman addressed this item stating that the main topic of discussion concerning this item was whether or not sidewalks served a purpose in this area and if sidewalks could be removed completely at a later date if this amendment were approved. It was clear from the discussion that occurred, Council could explore options that were more flexible and that provided a responsive approach to this item in the future should they wish to do so.

After discussion between Council members in reference to the Text Amendments items 1-3 above, information as shown on Attachment # 3, and staff recommendation, the following action was taken;

Motion by Council member Payne to accept the changes to the Text Amendments seconded by Council member Ayers and approved with a vote of 6 to 0 with Council member Byerly and Daniels absent.

(Attachment # 3 is attached to and made a part of these minutes).

VIII. New Business

6. Review and Approve Personnel Policy (*Nick Herman, City Attorney*)

Mayor Hill opened this item for questions, discussion, and action.

Attorney Herman reviewed the process used by the Personnel Committee in compiling and updating the Personnel Policy. He confirmed that all drafts submitted by the committee had been reviewed by him including the final draft that was provided to Council tonight for their review.

Council member Ayers stated for the record “any comments that I have or questions that I have for clarification or any statement that I have should be taken in a positive light. I am not trying to dismantle anything. I am trying to clarify and make a sensible contribution to this manual.” The following were asked by Council member Ayers.

- **Page 6-** Will this be a manual that will have to be given to all new employees. Will they have to sign or say anything that that they have received this or acknowledge that they have read the manual by signing or is it just given to them?

Attorney Herman responded the employee will be given the manual. One can require them to sign something but it is not necessary. Any new employee is obligated to understand the new policy and how it relates to them.

Council member Payne suggested that 2 copies be provided to the employee. The employee will keep one copy and return a signed copy to the Manager to be placed in their file.

Attorney Herman advised Council that the Manager can implement this procedure.

- **Page 6- Section 4 (Job Advertising):** Member Ayers: why was advertisement with the Employment Security Commission (ESC) omitted. The original policy stated that advertisement would be done with the ESC.

Attorney Herman replied this requirement was unnecessary.

- **Page 7- Section 7 (Medical and/or Psychological Examination)** Member Ayers: Should this not define the applicants for certain specific classifications?

Manager Hinson explained this would be used should the City wish to implement this section of the policy. This section normally refers to positions such as Police Officers.

Attorney Herman explained this section referred to futuristic employees such as a Police Officer.

- **Page 9-Section 2 (Promotion)** Member Ayers: Who is responsible for choosing candidates for promotion since it was not defined in this section.

Attorney Herman replied the City Manager would make this decision due to the form of government used in the City of Trinity.

- **Page 11- Section 1 (Time Change)** Member Ayers: As the language is presented how will the time change affect an employee's pay period?

Manager Hinson and Attorney Herman reiterated this would apply to future employees such as Police Officers.

- **Page 17-Section 1 (Overtime)** Member Ayers: Is there a stipulation for the method of accrual hours between regular workers and salaried workers. This policy states a rate at one and one half times but does not stipulate if this rate is used for both regular and salaried workers.

Attorney Herman replied this is determined and regulated under the Fair Labor Standards Act. Certain types of employees fall within the portion of this act that requires overtime after 40 hours. The same rules do not apply to executive, administrative, or managerial positions. All of the details of this action is contained in the Fair Labor Standards Acts.

- **Page 18-Section 4 (Work Week)** Member Ayers: does the work week need to be defined in the policy.

Attorney Herman replied the work week could start at any time and did not need to be defined.

- **Page 29- Section 5 (Grievance)** Members Ayers and Carico discussed this section and a suggestion made from an earlier review by the Attorney's office regarding additional language referring to due process for the City Manager. They asked why this language was not included in this final draft.

Council member Carico informed members that he had canvassed 7 cities in the surrounding area and found 2 that have a grievance procedure for the City Manager. A different method is used by each of these 2. One method uses the City Attorney for filing the grievance, and the other uses the Mayor, City Council, or Board or Alderman's. It was his feeling that the City Manager should be defined and not grouped with the term "any city employee".

Member Payne agreed that the City Manager was not just any city employee and that the manager worked for the Council. The Council acts on grievances for the manager.

Member Carico agreed but referred to the language in the policy that refers the grievance to the Personnel Committee, City Attorney, and Council. One of the entities that I spoke with used this process and has since changed it due to a problem that happened using this process. The process used now for grievance against the manager goes first to the Mayor, then to the City Attorney, and then to the City Council.

Attorney Herman discussed options available and informed members that once they articulate their preferences the changes could be incorporated into this document.

Council member Payne discussed how the Fair Labor Laws dictated items that were placed in this policy even though Council may not agree.

Council member Ayers asked Attorney Herman to explain the proper procedure to change this if Council wanted to make a change in this section.

An option available should Council decide to eliminate the Personnel Committee is to change this section to read “Any employee who would like to file a grievance against the City Manager should present the grievance in writing to the Mayor and to the Council as soon as possible. The Council shall consult with the City Attorney and any employee necessary to reach a correct, impartial, and equitable determination of the matter or take such other action as the Council deems necessary.” What is different is that instead of going to the Personnel Committee first it will go to the Mayor and Council which means you will be taking charge immediately.

Council member Ayers and Carico asked if a motion was needed to make this change. Attorney Herman advised both members that if this was the pleasure of the Council that he could make the change now and no motion was needed. The change will be incorporated into the adopted policy.

There was further discussion between Manager Hinson, Council members, and Attorney Herman concerning how the Council would like for this section of the policy to read. There were mixed views on how Council would like for the proposed policy to read.

Attorney Herman discussed the original question regarding exclusion of the proposed comment for this section from a draft and communicated the reason why he was not concerned about the removal of the language in this section was because he knew that he would be consulted under the language that is contained in this policy. I would advise Council that a consultation should be held with the manager concerning the complaint. Due process rights of the Manager would be preserved by me. Under the terms of the language that exists in this document, as soon as the Personnel Committee receives a grievance against the Manager, they are obligated to consult with the Attorney and with the Council. As soon as contact is made with the City Attorney, the Attorney would immediately call for a Closed Session Meeting of the entire Council to have the grievance revealed, discussed, and appropriately acted upon.

Council member Ayers stated that he could see how the language currently in this document could work and withdrew any kind of change.

No changes were made to this section.

- **Page 31- Section 5 (Deferred Compensation)** Member Ayers: Are the deferred compensation program(s) explained anywhere in this policy and does this require that an explanation be included.

Manager Hinson explained this section referred to any deferred compensation such as retirement. If the City offers any type of deferred compensation such as retirement, all employees are eligible to participate. A full-time (part-time) position would be entitled to enroll in the retirement program but at a rate less than the full time employee.

Attorney Herman stated no explanation is needed to be included in the policy. Sometimes things like this are left out because they are moving targets under different regulations. We provide enough language in the policy where there is a particular period of time that might trigger a benefit without specifying an amount because they might change.

- **Page 33- Section 4 (Vacation Leave):** Member Ayers asked for clarification regarding the 240 hour rollover of vacation into sick leave.

Manager Hinson replied that any vacation that is accrued over 240 hours will roll over into sick. An employee is not paid for accrued sick time at the end of employment.

Council member Carico discussed the current policy and prior to changes that allowed an employee to use vacation time for an unexcused absence due to adverse weather conditions. That is not shown in this section. He felt an employee should be allowed to take vacation or comp time for absences due to adverse weather conditions since an employee cannot control the weather.

After a brief research of the policy, Council member Carico was advised the location of this information was moved to page 40-Section 23. It states in this section that an employee shall be required to use accumulated comp time, vacation or leave without pay for adverse weather conditions in paragraph 2.

- **Page 36-Section 12 (Sick Leave Accumulation):** Member Ayers discussed the information contained in the last paragraph concerning the statement that there is no maximum accumulation for sick leave. He also asked if the rate referred to in this section was for time or money.

Manager Hinson explained that this related to retirement. Employees are only allowed to carry over 240 hours. Once that is reached anything accumulated over 40 hours will automatically be transferred over to the employee's sick time. As discussed earlier, the city has no payout when the employee leaves.

- **Page 44-Section 4 Eligible Subsistence/Miscellaneous Expense:** Member Ayers discussed the purchase of alcoholic beverages and the fact that this was not included in this policy.

After discussion with Attorney Herman regarding this issue the following change was implemented to the first sentence in this section: "other than alcoholic beverages" was added.

- **Page 53-Section C Evidence of Substance Abuse or Reasonable Suspicion:** Member Ayers asked if the problem involved management who would confront management.

After discussion between members, Attorney Herman, and Manager Hinson, it was the consensus of Council to leave the language as stated in this policy.

With no other discussion, *Motion by Council member Ayers to accept the Personnel Policy with changes on page 44 sections 4 to read "other than alcoholic beverages during travel" seconded by Council member Frazier and approved with a vote of 5 to 1 with Council member Byerly and Daniels absent. Council member Lohr opposed the policy.*

IX. Code Enforcement Report
(Marc Allred, Interim Planner)

Mr. Baker informed Council that 11 cases have been closed since December 2014.

Council members discussed various cases on the report and questioned why some of these cases were closed when violations were still apparent at these locations.

Mr. Baker advised Council that some of these properties were reoccurring violations.

X. Code Enforcement Complaint Policy

Attorney Herman shared with Council that at an earlier meeting Council voted to only accept and investigate complaints if names were provided. The policy was not to dignify anonymous complaints. An anonymous call could create harassment to the neighbors. The policy that was passed does not prevent Council members from reporting any violations. Any employee, management, or code enforcement officer can report a violation.

This is a good policy and does not prevent investigation of a reported violation.

XI. Business from City Manager and Staff

Manager Hinson reviewed the meeting schedule listed on the last page of the Agenda.

XII. Business from Mayor and Council

Mayor Hill asked that Council member Byerly be remembered tonight due to the sickness of his stepfather. Council member Daniels is very sick and may possibly have the flu.

XIII. Adjournment

Motion by Council member Ayers to adjourn the January 20, 2015 Regular Meeting at 8:15pm seconded by Council member Gantt and approved with a vote of 6 to 0 with Council member Byerly and Daniels absent.

These minutes were approved o February 23, 2015 with correction by Council member Frazier, seconded by Council member Payne, and approved unanimously by a vote of 7 ayes and 0 nays with Council member Daniels absent.

Mayor, Jesse Hill

Assistant City Clerk, Annette de Ruyter